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In the Supreme Court of the United States

October Term, 1982

JOSEPH E. NORRIS, SR.,
Petitioner,

vs.

HONORABLE LEO A. JACKSON, *et al.*,
Respondents.

PETITION FOR WRIT OF CERTIORARI
To the United States Court of Appeals
For the Sixth Circuit

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QUESTIONS PRESENTED

I. Whether or not a District Court Judge is permitted by the Federal Rules of Civil Procedure to dismiss a case *sua sponte* prior to any defendant entering an appearance or making any request in a pleading that the case be dismissed.

II. Whether or not the Federal Statute (42 U.S.C. Sec. 1983) prohibiting every person from denying the civil rights of any citizen of the United States under color of State law can ever be applicable to a denial of civil rights by Judges, or those responsible for the administration of the Court of the Judge involved or by those responsible for administering the State Government.

III. Whether or not an Appellate Court should affirm a dismissal as described above for a "jurisdictional" reason when the District Court stated that the dismissal was not for jurisdictional reasons but on the merits.

IV. Whether or not any U.S. law in any way prohibits a State Appellate Court from denying a U.S. citizen of his civil rights and/or the taking of his property without due process of law; and whether such an aggrieved citizen has any remedy in the event that such an action occurs.

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OPINIONS BELOW

The memorandum and order of the District Court is set forth in the appendix at A3. The order of the Court of Appeals for the Sixth Circuit is set forth in the appendix at A1.

JURISDICTION

The judgment and order of the Sixth Circuit Court of Appeals was entered on May 25, 1982. This Petition for a Writ of Certiorari is filed within ninety (90) days of that date. This Court's jurisdiction is invoked under (20A) U.S.C. Sec. 1257 (3).

STATUTES AND CONSTITUTION INVOLVED

This case was specifically pursued under 28 U.S.C. Sec. 1343 and 42 U.S.C. Sections 1981 and 1983 (See appendix A5). The sections of the United States Constitution which activate those statutes in this particular case are Amendments V, VII and XIV (See appendix A6).

STATEMENT OF THE CASE

Although the Court of Appeals characterized this case as an unauthorized attempt to appeal a State Court decision in the Federal Court system, this case is clearly not that.

This case was filed against completely different parties than those in the plaintiff's State Court case; and the case contains no request that the Federal Court reinstate the verdict against the original defendants.

The procedural aspects of the case are minimal. The plaintiff filed a Complaint (A7) which blatantly and clearly alleges a cause of action under Title 42 U.S.C. Secs. 1981 and 1983. The District Court dismissed the case *sua sponte;* and the Court of Appeals affirmed the dismissal without a hearing (A2). The memorandum of the Court of Appeals appears to reflect an attitude that the District Court was correct for jurisdictional reasons (A2). However, the District Court did not base its decision on jurisdictional grounds at all.

MANNER IN WHICH THE FEDERAL QUESTIONS WERE PRESENTED

The Federal questions involved were presented directly by the Complaint which the plaintiff filed in the United States District Court.

REASONS FOR GRANTING THE WRIT

I.

The first reason for granting this Writ is that the District Court Judges ought to be instructed that they are required to follow the Federal Rules of Civil Procedure. The action of the District Court Judge in this case totally fails to comply with those rules; and such a failure should be admonished by this Court.

II.

The second reason for granting this Writ is that a U.S. Appellate Court should not dismiss a case upon the grounds of jurisdiction when the District Court did not decide the case upon jurisdictional grounds, and when jurisdiction cannot possibly be contested because the case is brought pursuant to a U.S. statute enacted by the U.S. Congress.

III.

The third reason for granting this Writ is that it would be a total evasion of the duly enacted statutes of the U.S. Government to completely exempt both the Court and the Chief Executive from any liability when a U.S. citizen is denied his (or her) constitutional rights because a Court has denied them to him (or her) under color of State law.

IV.

The fourth reason for granting this Writ is that some justice may be attained from the clearly unjust situation which was created by an abuse of power by a State Court of Appeals.

CONCLUSION

In summary, this case was dismissed by the District Court prior to any defendant filing a pleading. Such a procedure is not authorized by the Federal Rules of Civil Procedure.

Secondly, the District Court did not base its decision upon a jurisdictional question. However, the Appellate Court order was entirely based upon a jurisdictional decision, which the petitioner believes was totally inappropriate.

Finally, the main issue which the petitioner wishes to bring before this Court is the question of whether or not a State Appellate Court (or the State's Chief Executive, or *anybody*) is liable to an aggrieved U.S. citizen for the denial of his constitutional rights if such denial is a result of the action of the State's Court system.

The petitioner believes that Judges are not exempt from this law.

Even the Sixth Circuit Court of Appeals has acknowledged that under *Buck v. Ohio Court of Appeals*, 554 F.2d 766, 767 (Sixth Cir. 1977), exceptional circumstances create a difference from the norm. If this Court looks at the plaintiff's Complaint, which alleges that he was blatantly denied his constitutional rights, the Court should understand that the plaintiff cannot simply perceive (either on the basis of the Federal Rules of Civil Procedure or, upon the basis of the statute involved, or upon the basis of justice) how his Complaint can be summarily dismissed in this manner.

This is a matter in which a State Court of Appeals took away from the plaintiff a Seven Hundred Fifty

Thousand Dollar ($750,000.00) jury verdict. The basic question involved is whether or not the current law of the United States allows such a Court to do that with impunity.

Respectfully submitted,

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